Passed
B. J. B

Sectt. II-27—60,004—17-11-48

# Home (194 9( ) Department.

115 SERIES.

Passed

G.O. NO. 4065

Dated 13--10--1949

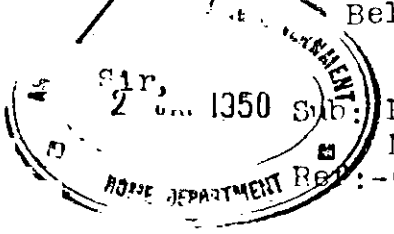
## [Despatch Abstract.]

Prisoners--Advisory Board--Central Jail, Bellary-Convict No.9634 Linganna Gowd and another Release--Ordered.

No.R. 258 /49 Dated 23-1-50. M 10875 2571

From
Sri. K. Narasimhalu
Superintendent,
Central Jail,
Bellary.

To
The Secretary to Government,
Home Department,
Ft.St.George, Madras.



Sir,

Sub: PRISONERS- Advisory Board- Central Jail- Bellary- Convict No. 9634- Linganna Gowd- release- reported- M03-49 (K)

Ref:-(1) G.O.Ms.No. 4065 Home Department dated 13-10-1949.
(2) This office letter No.R. 7867 /49 dated 17/10/49.

---

Convict No. 9634 Linganna Gowd is released from the jail, conditionally, today. M639 (K)

Superintendent.

Copy Submitted to the Inspector General of Prisons, Madras for favour of information.

C.NO 108/5713/50

Home (N) Deptt.

Page 1 above is submitted for perusal. May be filed with the G.O. at (K).

Pp 3-4 (K)

PJ 2/2/50

2/2/50

Copy C.
& 10.10.49.

96521
51+

Jail Department

ASSISTANT SECRETARY TO GOVERNMENT
5-OCT/1949
HOME DEPARTMENT

From

Lt.Col.-G.S.Gill, M.B.,CH.B.,
Inspector-General of Prisons,
M A D R A S.

To

The Secretary to Government,
Home Department,
M A D R A S

No. 90ØS4/49 Dated 3-10-49.

Sir,

Sub:- ADVISORY BOARD - Central Jail, Bellary - Long termers recommended - convict No.9634, 9635 and 9593. Papers submitted.

--

P88 of 1K 104.

Under rule 310-A(b) Madras Prison and Reformatory Manual, Part I, Volume II, I submit the following papers relating to the convict mentioned in the *Annexure for orders of the Government. These papers were placed before the Advisory Board which met in the Central Jail, Bellary on 26-9-49.

P10 (+)
P5-6 d 15-16 did
57-8 d 17-18 "
P23-29 "
P31-61 "
Rb 11 d 84 "

1. Proceedings of the Board.
2. Recommendation Rolls.
3. Nominal Roll.
4. Report of the Police and District Magistrates.
5. Judgment copies.
6. Working sheet of the Advisory Board.

p.t.o.

I agree with the recommendation of the Board.

2/12

For Inspr General of Prisons.

Annexure

| Serial No. | Convict No. | Name. | |
|---|---|---|---|
| 1. | 9634 | Linganna Gowd. | Judgment copy same being co-accused. |
| 2. | 9635 | Boya Girimalla | |
| ~~3.~~ | ~~9593~~ | ~~Mangali Chinna Lakshma~~ | separate file |

r/b/3/10

Issued & docketed
P 13/x/49

3

C. No. 96521 B2/49

402—2-7-48.

40
13/X

**HOME DEPARTMENT.**

*G.O.Ms. No.* 4065 , *dated* 13.x.49

Prisoners—Advisory Board—Central Jail, BELLARY Convict No. 9634 LINGANNA GOND and another - Release ——— ——— ——— Ordered.

READ—the following :—

1. From the Inspector-General of Prisons, No. 90/54/49. d. 3.10.49.

**Order :—**

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure 1898, His Excellency the Governor of Madras hereby remits unconditionally the unexpired portion of the sentence of imprisonment/transportation for life passed on the prisoner shown in Annexure I to these proceedings.

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure, 1898, His Excellency the Governor of Madras hereby remits with effect from the dates noted against each the unexpired portion(s) of the sentence(s) of imprisonment/~~transportation for life~~ passed on the prisoner(s) shown in the Annexure ~~I~~ to these proceedings subject to the condition that ~~he~~/they will be of good conduct and will keep the peace for ~~the period noted against them~~ a period of one year.

16.10.49 FB 5d 16 Ex (A)

P 12/10/49

15/10/49 JB 10.10.49

To the ~~Inspector~~-General of Prisons, Madras.
" ~~Superintendent~~, Central Jail. Bellary
" ~~Honourable~~ the Chief Justice High Court, Madras.
" ~~District~~ Magistrate. Bellary.
" ~~Sessions~~ Judge. Bellary.
" Inspector-General of Police, Madras (with ~~spare~~ one copies).
" Secretary, Madras Presidency Discharged Prisoners' Aid Society, 'Goschen Home', Teynampet, Madras.

14/11 (Copy for S.J)

[Annexure.

P.T.O.

4



ANNEXURE.

Central Jail, BELLARY.

| Number and name of Convict including father's name. | Residential address including taluk and district. | Sentencing Court and Case No. | Sentence and date. | Date on which release should take effect. | Period of good conduct. |
|---|---|---|---|---|---|
| (A2) 9634 LINGANA GOWD Son of AYYANA GOWD. p5 of (A) | SOMASAMUDRAM. BELLARY Taluk & District. p5 of (A) | S.J. Bellary. S.C. 7/'47. p31 of (A) | Transportation for life in all 2.4.'47. SW Mmp 32 of (A) | 23.1.'50. p11 of (A) | |
| | | High Court C.A. 231/'47. p47 of (A) | Sentence reduced to 7 years R.I. 22.8.1947 p47 of (A) | Mm p61 of (A) | |
| (A3) 9635 BOYA GIRIMALLA Son of MALLAYYA. p15 of (A) | do | -do- | -do | 1-1-50. p21 of (A) | |

p15 of (A)
PS 12/10/49

B 10/10/49. B

Note:- Both the D.M. and the Advisory Board recommend the premature release of the prisoners referred to above. For orders whether the recommendation may be accepted. If so draft orders submitted above is for approval.

pp6 d11 of (A)

B 10/10/49. B.

PS 12/10/49

12.10.49

GS

PROCEEDINGS OF THE ADVISORY BOARD MEETING HELD AT THE CENTRAL JAIL, BELLARY ON 26-9-49.

(A)

NAMES AND DESIGNATION OF THE MEMBERS OF THE BOARD:- | PRESENT:

1. Sri.V.V.Sugavanam, District Magistrate, Bellary.... President.

2. Sri.D.L.Shetty, Advocate, Bellary..... Non-official Member.

3. Sri.V.Narasimhamurthy, Superintendent, Central Jail, Bellary..... Secretary.

The cases of the following long termers of the Central Jail, Bellary are recommended for conditional/unconditional release.

| S.No. | Convict Number. | Name. | Remarks. |
|---|---|---|---|
| 1. | 9634 | Linganna Gowd | NOT RECOMMENDED. |
| 2. | 9635 | Boya Girimala | RECOMMENDED. |
| 3. | ~~9595~~ | ~~Mangali Chinna Lakshmi~~ | The convict's jail history sheet is good. The fear of intimidation at his hands on release will be there even when he is released after the full term, even if the reason given by the D.S.P. is true. The Board considers that this is a fit case for premature release. Hence recommended. |

Separate file.

26.9.49

NON-OFFICIAL MEMBER.

V.V.Sugavanam 26.9.49

PRESIDENT.

SECRETARY. 26/9/49

PROCEEDINGS OF THE ADVISORY BOARD MEETING HELD AT THE CENTRAL JAIL, BELLARY ON 26-9-49.

3

.....

NAMES AND DESIGNATION OF THE OFFICERS OF THE BOARD.

1. Sri. N.V. Sugavanam, District Magistrate, Bellary. — President.
2. Sri. D.I. Chetty, Advocate, Bellary. — Non-Official Member.
3. Smt. K. Narasimhamurthi, Superintendent, Central Jail, Bellary. — Secretary.

.....

The cases of the following Long Termers of the Central Jail, Bellary are recommended for Conditional/Unconditional release.

| S.No. | Convict Number. | Name. | Remarks. |
|---|---|---|---|
| 1. | 9634. | Linganna Gowd. | Recommended. |

(sd) N.V. Sugavanam,
President.

(sd) D.I. Chetty,
Non-Official Member.

(sd) K. Narasimhamurthi,
Secretary.

/True copy/

Superintendent.

GHP/26-9.

Judl. (Jail II)-92—304—26-10-46.

# Roll of convict recommended for conditional release under the Intermediate Sentences Scheme sanctioned in G.O. No. 667, Law (General), dated 26th February 1923.

| | |
|---|---|
| 1. Name of jail .. .. .. | Central Jail, Bellary. |
| 2. Convict number and Name .. | 0634. Lingana Gowd. |
| 3. Name of convict Father/Husband's name. | Ayyana Gowd. |
| 4. Name of village, taluk and district including Residential Address. .. | Somasamudram, Bellary Taluk, Bellary District |
| 5. Court by which the prisoner was convicted and case number. | S. C. No. 7/47. Sessions Judge, Bellary. |
| 6. Section of the I.P.C. or other law under which convicted. | 307, 452 & 148 I.P.C. |
| 7. Date of sentence .. .. .. | 2-4-47. |
| 8. Period of sentence .. .. .. | Transportation for life u/s 307; 5 years R.I. u/s 148 I.P.C., the sentences to run concurrent. Reduced to 7 years RI vide Govt. Memo detail |
| 9. Date on which convict completed two-thirds of his sentence. | 23-1-50. |
| 10. Unexpired portion of sentence on date of recommendation by the Board, including remission earned (remission granted in celebration of public events should be excluded). | Y I Days. 2 8 27. on 26.9.49 vide working sheet attached |

[P.T.O.

| | |
|---|---|
| 11. Full " police " history with recommendation of the District Superintendent of Police. p23 below | Convict No. 9634 Lingana Gowd of Somasamudram village has one previous conviction at his credit. He was living by cultivation. The complainant in the present case has changed his residence due to the fear of this convict. I therefore recommend the premature release of this convict on probation.. |
| 12. Recommendation of the District Magistrate. p25 below | The Dt. Supdt. of Police, Bellary has recommended the premature release of the Con. No. 9634 Lingana Gowd of Somasamudram village, On probation as he has one previous conviction at his credit and complainant had to change his residence for fear of this Convict. |
| 13. Remark of the Superintendent of the Jail on the conduct of the convict in prison. | I agree with the Dt. Supdt. of Police and recommend the premature release of this convict on probation. Exemplary. |
| 14. Recommendation of the Advisory Board with detailed reasons when the Board differs from the Superintendent of Police or the District Magistrate. | RECOMMENDED. |

Bellary Central JAIL,

Dated 26 - 9 - 1949

Superintendent.

FORM No. 52. (See Rule 879, Part I of Vol. II, M.P. and R.M.)

77 \

NOMINAL ROLL OF MALE * CONVICT No. 9634 † Casual. Class.I.

Name Lingana Gowd.

Residence (Village, Taluk and District.) Somasamidram, Bellary, Bellary

Caste Hindu- Lingayat. Present age 45 years. Occupation Cultivation.

Section and Code under which imprisoned. 307, 452, and 148 I.P.C.

Original sentence or order and date. Transportation for life u/s 307; 3 years R.I. u/s 148 I.P.C. the sentences to run concurrently. 2-4-1947.

Adjudicating Court and Calendar number of case. Sessions Judge, Bellary. S.C.7/47.

Unexpired term of sentence after deducting remission earned. 2 year(s) 8 Month(s) 27 Day(s).

Present state of health and fitness to undertake a journey.‡ Fit.

Judl.(Jail-II)-13.

P.T.O.

Cri.Appeal. 231/47 dated 22-9-47 on the file of the High Court Madras. Sentence reduced to 7 years R.I. u/s. 307 I.P.C.,- Sentence u/s 148 will stand; but the sentences will run concurrently.

Result of appeal (if any)

Conduct in Jail EXEMPLARY.

Personal and descriptive marks§ (1) A mole 1" behind the right ear. (2) A mole on the left side of the neck 3" below the lobe of the left ear. (3) A scar at the bridge of the nose.

Remarks T. U

One Previous conviction —

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus— No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner (Rule 649, Part I of Vol. II, M.P. and R.M.)

Bellary Central JAIL.
26-9-49. 194.

for Superintendent

Same as 60 7-Bellary

59

FORM No. 52. (See Rule 879, Part I of Vol. II, M.P. and R.M.)

NOMINAL ROLL OF MALE * CONVICT No. 9634 † Casual. Class.I.

Name Lingana Gowd.

Residence (Village, Taluk and District.) Somasamudram, Bellary, Bellary.

Caste Hindu- Lingayat. Present age 45 years. Occupation Cultivation.

Section and Code under which imprisoned 307, 452, and 148 I.P.C.

Original sentence and date. Transportation for life u/s 307; 3 years R.I. u/s 148 I.P.C. and the sentences to run concurrently. 2-4-1947.

Adjudicating Court and Calendar number of case. Sessions Judge, Bellary S.C.7/47.

Unexpired term of sentence after deducting remission earned 2 year(s) 8 Month(s) 27 Day(s).

Present state of health and fitness to undertake a journey.‡ Fit.

Jail. (Jail-II).-12

(P.T.O.

Crl.Appeal. 231/47 dated 22-8-47 on the file of the High Court Madras. Sentence reduced to 7 years R.I. u/s. 307 I.P.C.,- Sentence u/s 148 will stand; but the sentences will run concurrently.

Result of appeal (if any)

Conduct in Jail EXEMPLARY.

Personal and descriptive marks§ (1) A mole 1" behind the right ear. (2) A mole on the left side of the neck 3" below the lobe of the left ear. (3) A scar at the bridge of the nose.

Remarks I.H.

one Peruvas Conichan -

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus— No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M.P and R.M.)

Bellary Central Jail.

26-9-49. 194

by superintendent.

Working sheet of Convict No. 9634 Lingana Gowd.

.....

Date of sentence. 2-4-47.

Period of sentence. 7 years.

D.O.R. without remission. 1-4-54.

Willing to convert gratuity into Remission.

Unexpired portion of sentence.

| | | |
|---|---|---|
| 1-4-54 | D.O.R. without Remission. | |
| 26-9-49 | Date of Advisory Board Meeting. | |
| 5-6-4 | | |
| 8-9-1 | Less Remission earnt upto 31-8-49. | |
| 27-8-2 | Unexpired portion of sentence. | |

Remission earnt upto 31-8-49. | 643 days.

365)643(1
365
---
30)278(9
270
---
8.

Probable date of Release under Advisory Board Scheme.

| | | |
|---|---|---|
| Date of release without Remission. | 1-4-54. | |
| Less 1/3 of sentence of 7 years 2 Y. 4M | 0-4-2 | |
| | 1-12-51 | |
| Less remission that is earnt and can be earnt upto January '50 | 9-10-1 | |
| | ~~2-50~~ | |
| | 32 | |
| | 9 - | |
| | 23-1-50 | |

Remission earnt upto April 1949. (3-5-49) | 643 days.
Upto December '49 at 4 x 4 | 16 "
Gratuity of Rs 1-6-0 upto 31-8-49 converted into Remission at 0-2-0 per day. | 11 "
Probable gratuity of Rs. 0-4-0 from September '49 to December '49 converted into Remission | 2 "
January 1950. | 2 "

---

365)674(1
365
---
30)309(10
300
---
9.

INSPECTOR-GENERAL OF PRISONS 30 SEP 1949 MADRAS

23-1-50 Date of release under Advisory Board Scheme.

GHM/19-9.

Superintendent.

PROCEEDINGS OF THE ADVISORY BOARD MEETING HELD AT THE CENTRAL JAIL, BELLARY ON 26-9-49.

.....

NAMES AND DESIGNATION OF THE MEMBERS OF THE BOARD.

1. Sri. N.V. Sugavanam,
   District Magistrate, Bellary. President.

2. Sri. D.L. Chetty,
   Advocate, Bellary. Non-Official Member.

3. Sri. K. Narasimhamurthi,
   Superintendent,
   Central Jail, Bellary. Secretary.

.....

The cases of the following Long Termers of the Central Jail, Bellary are recommended for Conditional/Unconditional release.

| S.No. | Convict Number. | Name. | Remarks. |
|---|---|---|---|
| | 9635. | Boya Girimala. | Recommended. |

(sd) D.L. Chetty,
Non-Official Member.

(sd) N.V. Sugavanam,
President.

(sd) K. Narasimhamurthi,
Secretary.

/True copy/

Superintendent,

GPM/26-9.

Judl. (Jail II)-82—4,535—9-5-44.

15

# Roll of convict recommended for conditional release under the Intermediate sentences scheme sanctioned in G.O. No. 667, Law (General), dated 26th February 1923.

| | |
|---|---|
| 1. Name of jail | Central Jail, Bellary |
| 2. Convict number & Name | 9600. Boya Girimallu. ✓ |
| 3. Name of convict Father's/Husband's | Pillayya. |
| 4. Name of village, taluk and district .. including residence address. | Somasamudram. Bellary Taluk, Bellary Dt. |
| 5. Court by which the prisoner was convicted and case number. | S.C. No. 7/47, of Sessions Judge, Bellary. |
| 6. Section of the I.P.C. or other law under which convicted. | 307, 452 & 148 I.P.C. ✓ |
| 7. Date of sentence ... ... ... | 2-4-47. |
| 8. Period of sentence ... .. ... | Transportation for life u/s. 307; 3 years R.I. u/s 148 I.P.C. the sentences to run concurrently. Sentence reduced to 7 years R.I. by High Court – vide R & W for details — |
| 9. Date on which convict completed two-thirds of his sentence. | 1-1-1950 ✓ |
| 10 Unexpired portion of sentence on date of recommendation by the Board, including remission earned (remission granted in celebration of public events should be excluded). | Y 1 Days. 2 8 1 vide working sheet attached on 26.9.49 |

[P.T.O.

16

| | |
|---|---|
| 11. Full ".police" history with recommendation of the District Superintendent of Police. | Convict No. 9635 Girimalla of Somasundram has no previous convictions to his credit. He was living by cultivation. The complainant in this case has changed his residence and is living in another village (Korlagundi) due to the fear of this Convict.<br>I therefore recommend the premature release of this convict on probation. |
| 12. Recommendation of the District Magistrate. | The Dt. Supdt. of Police, Bellary has recommended the premature release of Boya Girimalla of Somasundram village the con. No. 9635 on probation as complainant changed his village on account fear of this convict. I agree with the Dt. Supdt. of Police, ~~and recommend the premature~~ release of this convict on probation.<br>Exemplary. |
| 13. Remark of the Superintendent of the Jail on the conduct of the convict in prison. | |
| 14. Recommendation of the Advisory Board with detailed reasons when the Board differs from the Superintendent of Police or the District Magistrate. | RECOMMENDED. |

Bellary Central JAIL,

Dated 26-9-1949

Superintendent.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.)

NOMINAL ROLL OF MALE* CONVICT No. 9635 † Casual

Name BOYA GI MALA

Residence (Village, Taluk and District.) Somalamudram, Bellary, Bellary.

Caste Hindu Boya. Present age 32 years. Occupation Cultivation.

Section and Code under which imprisoned 307, 452, and 148 I.P.C. transportation for life u/s 307; 5 years R.I. u/s 148 I.P.C. the sentences to run concurrently.

Original sentence, if order and date. 2-4-1947.

Adjudicating Court and number of case. Sessions Judge, Bellary. S.C. 7/47.

Unexpired term of sentence after deducting remission earned 2 year(s) 8 Month(s) Nil 1 one. Day(s).

Present state of health and fitness to undertake a journey.‡ Fit.

Judl. (Jail-II).-13.

(P.T.O.

Crl.Appeal . 231/47 dated 22-9-47 of the file of the High court, Madras. Sentence reduced to 7 Years R.I. u/s 307 I.P.C.; sentence u/s 148 will stand; but the sentences will run concurrently.

Result of appeal (if any)

Conduct in Jail EXEMPLARY.

Personal and descriptive marks§ (1) A raised mole on the right side of the neck 2" above the right collar bone. (2) A mole on the left side of the neck 2½" below the lobe of the left ear. (3) A big oval scar on the back and lower third of right fore-arm.

Remarks I- H.

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* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the latter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner (Rule 649, Part I of Vol. II, M.P. and R.M.)

Cellular Central JAIL.
26-9-49
194

Superintendent.

Same as HB 17-18 above

FORM No. 52. (See Rule 879, Part I of Vol. II, M.P. and R.M.)

NOMINAL ROLL OF MALE* CONVICT No. 9635† Cases

Name BOYA GIRIMALLA

Residence (Village, Taluk and District) Somasamudram, Bellary, Bellary.

Caste Hindu-Boya. Present age 32 years. Occupation Cultivation.

Section and Code under which imprisoned 307, 452, and 148 I.P.C. Transportation for life u/s 307; 3 years R.I. u/s 148 I.P.C., and the sentences to run concurrently.

Original sentence, date. 2-4-1947.

Adjudicating Court and calendar number of case. Sessions Judge, Bellary. S.C. 7/47.

Unexpired term of sentence after deducting remission earned 2 year(s) 8 Month(s) 21 1 One Day(s).

Particulars of state of health and fitness to undertake a journey.‡ Fit.

Judl. (Jail-II)-13.

[P.T.O.

Crl.Appeal . 231/47 dated 22-9-47 on the file of the High court, Madras. Sentence reduced to 7 Years R.I. u/s 307 I.P.C.; sentence u/s 148 will stand; but the sentences will

Result of appeal (if any) run concurrently.

Conduct in Jail EXEMPLARY.

Personal description of marks (1) A raised mole on the right side of the neck 2" above the middle of the right collar bone. (2) A mole on the left side of the neck 2½" below the lobe of the left ear. (3) A big oval scar on the back and lower third of right fore-arm.

Remarks I- H.

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M.P. and B.M.)

Bellary Central JAIL.
26-9-49 19[illegible].

Superintendent.

Working Sheet of Convict No. 9635 Girimalla.

Date of sentence. 2-4-47.

Period of Sentence. 7 year

D.O.R. without Remission. 1-4-54.

Willing to convert gratuity into Remission.

$7\frac{2}{3} = \frac{14}{2}$ ✓

Unexpired portion of sentence.

| | |
|---|---|
| 1- 4-54 | |
| 26- 9-49 | |
| 5- 6- 4 | |
| 4-10- 1 | Less Remission earnt upto 31-8-49. |
| 1- 8- 2. | |

Remission earnt upto 31-8-49. 669 days.

365 )669(1
365
---
30)304(10
300
---
4.

Date of Release under the Advisory Board Scheme.

| | | | |
|---|---|---|---|
| Date of Release without Remission. | 1- 4-54. | Remission earnt upto 31-8-49. | 669 days |
| Less 1/3 sentence of 7 years | 0- 4- 2 | Gratuity of Rs. 0-14-0 converted into remission at Rs. 0-2-0 per day. | 7 " |
| | 1-12-51 | | |
| Less total remission | 11- 1 | Probable Remission he can earn as Night Watchman. | |
| D.O.R. | 1- 1-50 | September- 5. | 19 " |
| | | October. 5. | |
| | | November. 5. | |
| | | December. 4 | |
| | | 19 | |
| | | | 695 " |

365)695(1
365
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30)330(11
330
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INSPECTOR-GENERAL OF PRISONS 21 SEP 1949 MADRAS

Superintendent.

GHM/19-9.

POLICE DEPARTMENT

From

S.G.Woodhouse Adolphus Esq.,
Dist. Supdt. of Police,
Bellary.

To

The Superintendent,
Central Jail,
Bellary.

C.No. 5424/49- C.1 Dated 20th June 1949.

Sir,

Sub:- Prmature release - Convict No.9654 Gowda Lingana Gowd - Convicted - in Kurugodu Station Cr.No.27/48 Sec. 307 I.P.C. - Report.

Ref:- Your No.1977/49 Dated 19th May 1949.

Convict No.9654 Gowda Lingana Gowd - Somasamudram has one previous conviction at his credit. He was living by cultivation. The complainant in the present case has changed his residence due to the fear of this convict.

I therefore recommend the premature release of this convict on probation.

Dist. USupdt. of Police,
Bellary.

S.K.M.

Copy to the Superintendent, Central Jail, Bellary, direct.

1844

45/25

From
E.C.Allardice Esq. I.C.S.,
District Magistrate, Bellary.

To
The Superintendent of
Central Jail, Bellary.

L.Dis. 1757/49 E.3. dated 24.6.49.

Sir,

Sub:- Criminal Justice - premature release of convict No. 9634 - Lingana goud - release of-recommended.

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Ref:- Your No.1977/49 dated 19.5.49.

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The Dist.Supdt. of Police, Bellary has recommended the premature release of the convict No. 9634 Gowdra Lingana goud of Samasamudram village on probation as he has one previous conviction to his credit and complainant had to change his residence for fear of this man.

I agree with the Dist.Supdt. of Police and recommend the premature of this convict on probation.

Sd. E.C.Allardice,
Dist.Magistrate.

By order.

Huzur Head Clerk.

741 30.6.49

30/6/49

MMB. 25.6.

From
E.C.Allardice, Esq. I.C.S.,
District Magistrate, Bellary.

To
The Superintendent Central Jail, Bellary.

L.Dis. 1756/49 E.3. dated 24.6.49.

Sir,

Sub:- Criminal Justice - premature release of convict No. 9635 - Boya Grimalla release of recommended.

Ref:- Your No:A. 1976/49 dated 19.5.49.

The Dist.Supdt. of Police, Bellary has recommended the premature release of Boya Girimalla of Somasomadram village the convict No. 9635 on probation as complainant changed his village on account of fear of this convict.

I agree with the Dist.Supdt. of Police and recommend the premature release of this convict on probation.

Sd. E.C.Allardice
Dist.Magistrate.

By order.

Huzur Head Clerk.

M.B. 25.6.49

BELLARY

Gn. 9. 6. 5

Zho Sheppeard Tondeleyo,
C'en tout fait
Bellamy

POLICE DEPARTMENT

From

G.Woodhouse Adolphus Esq,
Dist. Supdt. of Police
Bellary.

To

The Superintendent,
Central Jail, Bellary,
Thro' The Dist. Magistrate,
Bellary.

B.No.3425/49 - C.1., Dated 20th June 1949.

No.R.673/49.

Sir,

Sub:- Premature release - convict No.9635 Boya Gire Malla-Convicted in Kurugodu Station Crime No. 27/46 Sec. 307 I.P.C. -- Report.
Ref:- Your No.R.1976/49 dated 19th May 1949.

Convict No.9635 GireMalla of Somasamudram has no previous convictions at his credit. He was living by cultivation. The complainant in this case has changed his residence and is living in another Village (KeMagundi) due to the fear of this convict.

I therefore recommend the premature release of this convict on Prema-ture.

For Dist Supdt. of Police,
Bellary.

SKM.

Copy to the Supdt. of Central Jail Bellary direct.

# In the Court of Session of the Bellary Division.

*The 2nd day of April 1947.*

Present:- E. E. Mack Esq., I. C. S., Bar-at-law, Sessions Judge.

SESSIONS CASE No. 7 OF 1947.

Rex. v. ... 1. H. Virupaksha Gowd. 2. Lingana Gowd. 3. Boya Girimalla. 4. Siddaramana Gowd. 5. Nagana Gowd. 6. Dodda Linga. 7. Dodda Linga. 8. Hanumantha. 9. Karuru Nagappa. 10. Rudra Gowd. 11. Kurekumpi Lingana Gowd. 12. Kolur Hanumantha Gowd. 13. Ramana Gowd. 14. Veerabhadra Gowd. 15. Dodda Basya. 16. Nese Pompanna.

Preliminary Enquiry No. 1 of 1946 (Crime No. 27 of 1946, Kurugode Police Station), committed by Sri N. Veeraswamy Naidu, Additional I Class Magistrate, Bellary, Bellary District.

Assessors:—
1. J. P. Bhaskar, Christian.
2. Devasikhamani, Christian.
3. K. Sanjivamurthy Rao, Brahmin.
4. A. Sesha Sastri, Brahmin.

As. 1, 2, 4 and 9 to 16 were defended by Sri M. A. Narayana Ayyangar, Pleader, A-5 by Messrs. M. A. Narayana Ayyangar and P. S. Vaidiswara Ayyar, Pleaders, As. 3 and 6 by Sri S. Tirumala Rao, Advocate and As. 7 and 8 were defended by Sri P. Bhimasena Rao, Pleader.

**Charges.** ... ...

*Against all the accused.*

1. Rioting armed with deadly weapons, under Section 148 I. P. C.
2. House trespass after preparation for hurt, under Section 452 I. P. C.

*Against As. 1, 2 and 3.*

3. Attempt to murder, under Section 307, I.P.C.

*Against As. 4 to 16.*

4. Constructive liability for attempt to murder being members of an unlawful assembly under Section 149 read with Section 307 I. P. C.

**Plea.** ... Not guilty.

**Opinion of Assessors.** ... Appended

**Finding of Court.** ... As. 2 and 3 guilty under Section 307 I. P. C.

As. 2, 3 and 9 guilty under Section 452 I. P. C.

As. 4, 9 and 13 guilty under Section 149 read with Section 307 I. P. C.

As. 2, 3, 4, 9 and 13 guilty under Section 148 I. P. C.

As. 1, 5, 6, 7, 8, 10, 11, 12, 14, 15 and 16 not guilty under Sections 148 and 452 I. P. C.

A-1 not guilty under Section 307 I. P. C.

As. 5, 6, 7, 8, 10, 11, 12, 14, 15 and 16 not guilty under Section 149 read with Section 307 I. P. C.

**Sentence.** ... S ... *As. 2 and 3*:—Each sentenced to Transportation for life under Section 307 I. P. C.

*A-9*:—Sentenced to seven (7) years' rigorous imprisonment under Section 307 read with Section 149 I. P. C.

*As. 4 and 13*:-Each sentenced to three (3) years' rigorous imprisonment under Section 307 read with Section 149 I. P. C.

M *As. 2, 3, 4, 9 and 13*:—Each sentenced to three (3) years' rigorous imprisonment under Section 148 I. P. C.

All the sentences to run concurrently.

**Order.** As. 1, 5, 6, 7, 8, 10, 11, 12, 14, 15 and 16 are acquitted on all counts.

| No. | Name of accused. | Father's name. | Caste or race. | Occupation. | Residence. | Age. |
|---|---|---|---|---|---|---|
| 1. | H. Virupaksha Gowd. | Mallana Gowd. | Lingayat. | Village Munsif. | Somasamudram, Bellary Taluk. | 28 |
| 2. | Lingana Gowd. | Ayyana Gowd. | Do. | Cultivation. | Do. | 43 |
| 3. | Boya Girimalla. | Mallayya. | Boya. | Do. | Do. | 30 |
| 4. | Siddaramana Gowd | Ayyana Gowd. | Lingayat. | Do. | Do. | 30 |
| 5. | Nagana Gowd. | Lingana Gowd. | Do. | Do. | Do. | 35 |
| 6. | Dodda Linga. | Mallayya. | Boya. | Do. | Do. | 35 |
| 7. | Dodda Linga. | Sura Naik. | Do. | Do. | Do. | 50 |
| 8. | Hanumantha. | Sura Naik. | Boya. | Clerk in a private shop. | Bellary, Bellary Taluk. | 55 |
| 9. | Karur Nagappa. | Muddappa. | Lingayat. | Cultivation. | Somasamudram, Bellary Taluk. | 30 |
| 10. | Rudra Gowd. | Sakra Gowd. | Do. | Do. | Do. | 18 |

| No. | Name of accused. | Father's name. | Caste or race. | Occupation. | Residence. | Age. |
|---|---|---|---|---|---|---|
| 11. | Kurekumpi Lingana Gowd. | Mukkanna. | Lingayat. | Cultivation. | Somasamudram, Bellary Taluk. | 40 |
| 12. | Kolur Hanumantha Gowd. | Gireppa. | Do. | Do. | Do. | 25 |
| 13. | Ramana Gowd. | Ayyana Gowd. | Do. | Do. | Do. | 30 |
| 14. | Veerabhadra Gowd. | Mallana Gowd. | Do. | Do. | Do. | 22 |
| 15. | Dodda Basya. | Dodda Basappa. | Do. | Do. | Do. | 24 |
| 16. | Nese Pompanna. | Virupakshappa. | Do. | Do. | Do. | 35 |

DATE OF:—

| | | | |
|---|---|---|---|
| 1. | Occurrence. | ... | 1-11—1946. |
| 2. | Complaint. | ... | 1-11—1946. |
| 3. | Arrest or appearance. | A-1 on | 4-11—1946. |
| | | As. 2, 4, 6, 11 and 14 on | 8-11—1946. |
| | | As. 5, 8 and 16 on | 18-11—1946. |
| | | As. 3, 7, 9, 10, 12, 13 and 15 on | 12-11—1946. |
| 4. | Commitment. | ... ... | 1—2—1947. |
| 5. | Receipt of committal order. | ... ... | 18—2—1947. |
| 6. | Release on bail. | ... A-1 on | 6-11—1946. |
| | | As. 2, 4, 6, 11 and 14 on | 8-11—1946. |
| | | As. 5, 8 and 16 on | 18-11—1946. |
| | | As. 3, 7, 9, 10, 12, 13 and 15 on | 12-11—1946. |
| 7. | Commencement of trial. | ... ... | 20—3—1947. |
| 8. | Close of trial. | ... ... | 31—3—1947. |
| 9. | Explanation for delay. | ... ... | Nil |

# JUDGMENT.

—(o)—

1. The 16 accused, all residents of Somasamudram, a village 7 miles from Bellary, are charged under Section 148 I. P. C. with rioting armed with deadly weapons on the 1st of November 1946 at about 1 or 2 P. M. Their common object is said to have been to murder Badigera Ayyanna (P. W. 2), a carpenter of this village, who miraculously escaped from most serious injuries. As. 1, 2 and 3 are charged directly under Section 307 I. P. C. with causing injuries to him, As. 1 and 2 with battle axes and A-3 with a sword. The other accused are charged constructively under Section 307 read with Section 149 I. P. C. There is also a minor charge under Section 452 I. P. C. against all the accused.

2. All the accused are Lingayats except As. 3, 6, 7 and 8 who are Boyas. The Lingayat accused are admitted by P.W 2 himself to be important persons owning land in the village. A-1 is no other than the Village Magistrate in office, a young man, aged about 28, who had studied in the Wardlaw High School, Bellary up to the S. S. L. C. for which he appeared and failed. As a Village Magistrate he appears to have had a good record having earned several red entries for revenue collection and also Police rewards. A-2 and A-4 are paternal uncles of A-1. A-2 is said to be the most influential man in the village.

3. A faction in the village between the Lingayats and some Boyas on the one hand and this carpenter P. W. 2 and his followers and some Edigas of the village is said to have originated about two years ago in P. W. 2 attempting to take out a procession to celebrate his nephew's marriage. This was strongly opposed by the Lingayats who held an out of date view that marriage processions were only the prerogative of the Lingayats and for higher castes, and could not be permitted amongst the Badigera or carpenter community to which P. W. 2 belongs. It is in evidence that the procession was stopped after stones were pelted. A petition, Ex. P-2, was sent up in this connection in August 1945 by Ayyanna (P. W. 2) to the District Superintendent of Police, on which the then Sub-Inspector of Kurugode (P. W. 13) in whose jurisdiction this village of Somasamudram lies sent a report, Ex. P-2(a), dated 14-9-1945 after local enquiry. Ex. P-2 complained of an attack on the marriage procession with sticks and stones by As. 1, 2, 3, 4, 6, 9, 10, 11, 13, 14 and about 10 others in the course of which P W. 2 and his relations were chased into his house. It says 'inter alia' that no complaint was immediately made in view of the threats of the Village Magistrate himself, and that these persons were all trying to murder him and P. W. 2 asked for Police protection. In his evidence P. W. 13 says that P. W. 2 did try to take out a marriage procession in the teeth of the opposition by the whole village and in violation of existing custom, and that he warned both parties that he would take action under the security sections if they created any further breach and that the parties were being closely watched. Ex. P-3 is a subsequent petition dated 29-10-1945 by P. W. 2 to the District Superintendent of Police to the effect that he came to know that the Village Magistrate (A-1), his uncles (A-2 and A-4) and As. 5, 6 and 11 and four other specified persons were trying to disgrace him and murder him and that he was afraid to go out by himself. P.W.13 says that he did not make any further enquiry into this, referred to his previous report and recommended this second petition being lodged. Since then strained relations appear to have continued in the village though they were not reflected in any overt act or violence. In a criminal case of assault and rioting by one Kenchappa of another village against P. W. 2 and others including three prosecution witnesses (P Ws. 6, 11 and 12) the Village Magistrate (A-1) figured as a P. W. That case resulted in acquittal shown in a judgment, Ex. P-4, on 27-7-1946 with strictures against the Village Magistrate examined there as P W. 7 whom the Court held to be responsible for a concocted case. P. W. 2

who though a carpenter of a lower caste appears to have been an enterprising man. He had the licence for the Village ration shop for one or two years until he was displaced by A-4 who is another paternal uncle of the Village Magistrate by an order, Ex. D-1, dated 25-2-1945. According to Ex. D-1 P. W. 2 was found selling controlled articles at enhanced rates and mixing broken with good rice.

4. It is in evidence that the two factions in the village took sides in a land dispute between Raghavendra Rao, a Brahmin and one Mari Gangamma over some lands in this village. A suit O. S. 480 of 1946 was filed by Raghavendra Rao as usufructuary mortgagee for an injunction against 7 defendants including Sivalingappa (P.W. 12),a Boya, and an adherent of P. W. 2's party. It is in evidence that Raghavendra Rao and his brother Rama Rao came to Somasamudram village on the very date of this alleged riot, namely 1—11—1946 with a crowd of persons and harvested and removed crops on these lands. A-8 is a Boya residing in Bellary who for the past 15 years has been a clerk under Raghavendra Rao. A-7 who lives in Somasamudram is the brother of A-8.

5. This is the background in which the evidence requires appreciation. A rather involved sequence, in different phases can best be dealt with chronologically. I shall first deal with the events leading up to the first complaint, Ex. P-5, made by Ediga Siddappa (P. W. 11) at the Kurugode Police Station at 9 P. M. that day. P. W. 11 and another resident of Somasamudram, one Ediga Ramappa, who has not been examined, had come to Bellary that day. P. W. 11 says that Sivalinga (P.W. 12) came to him that afternoon with news that Raghvendra Rao and Rama Rao had come to the village in a car with men to remove the crops, and that P. W. 2 asked him to consult their Vakil, Mr. Kolar Rama Rao at Bellary. He accompanied P.W. 12 to the Vakil and then, when they were all three near the bus stand Hanumanthappa (P. W. 10), the brother of P. W. 12, came to them with news of this riot and attack on P. W. 2 to ask P. W. 12 not to return to the village. P. W. 11 immediately engaged a taxi in which he, P. W. 10 and Ediga Ramappa proceeded to Kurugode, 12 miles from Bellary, while P. W. 12 stayed behind in Bellary. On the way they halted near Somasamudram and sent P. W. 10 to see how P. W. 2 was. P. W. 10 with whose evidence I shall presently deal, found P. W. 2 lying in a critical state unable to speak, and took this information to P. W. 11. He stayed behind in the village while P. W. 11 and Ramappa went on to Kurugode. There at 9 P. M. P. W. 11 made a complaint, Ex. P-5, to the following effect that, when he and Ramappa were in Bellary, P. W. 10 came to them at 4 P. M. and informed them that Raghavendra Rao, Rama Rao, their clerk, A-8 and 8 others whose names were not known came to Somasamudram at about 10 A. M. in a lorry and a taxi and harvested the field with the assistance of the Village Magistrate (A-1) and As. 2, 4, 5, 11, 16 and others, that they then entered the house of Ayyanna by cutting its doorway and attacked him with battle-axes and hand-axes and that P. W. 2 was dying. He also said that P. W. 10 told him that they would murder him also if he returned to the village and so in fear he came direct to the Station without going to the village.

6. The Sub-Inspector of Kurugode Sri P. T. Srinivasan (P. W. 14) was that evening in Siruguppa, 31 miles from Kurugode attending a Sub-Inspectors' conference when P. W. 11 arrived there in a taxi at 11-30 P. M. and told him that he had made a complaint at the Police Station that Ayyanna had been hacked with battle-axes at Somasamudram. He says that he did not tell him at the time by whom. He promptly accompanied P. W. 11 in his taxi to Kurugode which he reached at 2 A. M. and then leaving P. W. 11 and Ediga Ramappa there proceeded in the same taxi to Somasamudram which he reached at 6 A. M. There he found Ayyanna (P. W. 2) in the house of Ediga Linganna which as the plan, Ex. P-8, shows adjoins P. W. 2's house in a most critical condition

with all his injuries bandaged, and his mother Kalamma (P. W. 3) and his wife by his side. Without attempting any investigation then and there, he put P. W. 2 into the same taxi and took him to the Bellary Headquarters Hospital. He returned to Somasamudram on 3-11-1946 and investigated the case.

7. Ayyanna (P. W. 2) had most grievous injuries on him clearly evidencing a murderous attack made upon him from which he had an astonishing escape. He had three incised wounds on the head, one 3" X ½" with fissured fracture of the skull and another 1½"X½" which also fractured his skull. He was badly hacked about in the region of his hands. He had a 'V' shaped incised wound 6" long below the left little finger which cut through the palm up to the wrist joint. His right wrist was practically severed and all the metacarpal bones on the right hand were completely cut through. He had two severe cuts also on the left forearm. Eight injuries in all were caused by sharp weapons such as a battle-axe or a sword. He had also a punctured wound on his right knee and five abrasions or contusions, one 6" long below the right shoulder. Ayyanna was an in-patient in the Bellary Hospital for more than two months. On the very first day the Sub-Assistant Surgeon (P. W. 1) said that he thought amputation of the right hand was necessary but that the District Medical Officer thought that he would give it a chance. By skilful surgery and medical attention Ayyanna survived, but both his hands are permanently crippled.

8. I shall now take up P. W. 2's actual evidence. He gives an extraordinary story without reference to the land dispute or the removal of the harvest by Raghavendra Rao. He says he was lying down that afternoon in his house, that his wife had gone to another village and that his mother was the only other person in the house. He heard a noise and from a window saw all the accused go past his house and stand in a body at his door with battle-axes and sticks. He heard some one exhort the crowd to go in and kill him and in fear ran into a middle room and bolted the door. The crowd however entered by lifting up the door hinges. A-2 came in first followed by A-3 and A-1. A-2 aimed a blow with his battle-axe at his head. In trying to ward it off P. W. 2 received it on the back of his right hand. A-3 cut him with a sword which he tried to ward off with his left hand and then A-1 cut him on the head with a battle-axe. P. W. 2 says he then became unconscious. He said that 4 or 5 other persons also entered the room but he could not say who they were. He later regained consciousness to find his mother near him. Then some women came including Sivalinga's mother Devakka (P. W. 4) and helped her to attend to his wounds. Then two friends, a Kuruba, Basanna (P. W. 6) and, an Ediga, Obanna (P. W. 7) came into P. W. 2's house from the roof. It is in evidence that the houses in this village have flat roofs which can be reached by ladders from open spaces in the houses below. P. Ws. 6 and 7 say they heard that P. W. 2 was cut and as there was a big crowd below in front of his house they entered it in this way to find his mother and women bandaging his wounds.

9. P.Ws.2, 6 and 7 then all give the following account that they heard the crowd outside shouting out that P. W. 2 was still alive. P.W.4 and one of the other women shut the front door and stood against it. P. Ws. 6 and 7 got up on to the roof, P. W. 7 contriving to lift up P. W. 2, injured though he was, on to the roof with the help of a cot which happened to be conveniently placed. From the roof they escaped into the next house which belonged to one Ediga Linganna through the skylight and down a ladder. P. Ws. 6 and 7 went down it first, and, while P.W.2 was making his way down, he says some of his assailants came on to the roof and somebody whom he did not see hit him on the head. He tumbled down the ladder on to the floor of Linganna's house and became unconscious again. When he recovered he found himself in Linganna's house with his mother near him and there he stayed till the Sub-Inspector came. P. Ws. 6 and 7 corroborate P. W. 2's account of the second phase of the attack on him. P. W. 6 says he pulled the ladder down after P. W. 2 tumbled down, and is prepared to swear that he saw three persons namely

As. 2, 3 and 9 on the roof at the time P. W. 2 fell down. He says he escaped by the front door after pulling down the ladder as stones were being pelted. P. W. 7 says he also thought P. W. 2 was dead and went away.

10. Kalamma, P. W. 2's mother, though in the same house saw nothing of the actual attack on her son. She says that at about 1 P. M. a crowd came crying "Beat and cut Ayyanna" Her son ran into a middle room and bolted the door from inside. As. 1 to 4, 6 to 8 and 13 entered their house with battle-axes, swords and sticks and she adds that the other accused also followed. She stood in front of the door of the room into which her son had run. They pushed her aside, lifted the hinges of the door and went in. She did not see what transpired inside. Then the crowd went away and she heard some one say "We have killed Ayyanna". She then went into the room and found her son with his injuries and helped him to the padasala where P. W. 5 and another woman neighbour helped her to bandage his wounds. She then corroborates the second phase of the prosecution case, the entry into the house by P. Ws. 6 and 7, the second attack and their escape with her injured son via the roof into Linganna's house. Later she found her son lying there unconscious and remained by his side throughout the night till the Sub-Inspector came. In the lower court she said that As. 1 to 4, 6 to 8 and 13 only came inside and that the other accused remained outside the house.

11. Devakka (P. W. 4) is the mother of Sivalinga (P. W. 12) who, it will be remembered, went to Bellary that morning to consult a Vakil. She says that a crowd of about 40 or 50 persons came near her house enquiring for Sivalinga. She told them he had gone to Bellary and they left her house saying "Let us go and kill Badigera Ayyanna". She identified amongst the crowd As. 1, 2, 3, 6, 9 and 13. Sometime later she went with her daughter-in-law to P. W. 2's house and says she saw some of the accused coming out, A-3 with a blood stained sword in his hand. She later went inside with her daughter-in-law and helped P. W. 3 to bandage his wounds. She too corroborates the second phase about the escape of P. W. 2 into the next house when a crowd came back as she says crying out "He is alive. We will kill him". She says she and her daughter-in-law shut the doors and bolted them. She is an old woman of about 60 but stood her cross-examination very well.

12. The next witness is Lingamma (P. W. 5), a Kuruba woman, who lives opposite P. W. 2's house. She saw a crowd of 50 or 60 persons amongst whom she identified only A-3 and A-7, the former with a sword in his hand, going towards P. W. 2's house. She saw them enter and then went, as may be expected inside her house. Later, after the crowd left saying they had killed Ayyanna she went to P. W. 2's house and found P. W. 3 and P. W. 4 bandaging his injuries. She went back to her house and sometime later she saw a crowd making a disturbance on the top of P. W. 2's roof. This woman is a widow who lived with her brother and worked as a cooly. No interest against A-3 and A-7 whom she identified has been elicited and there is nothing to indicate that she is deposing to anything but her actual observations.

13. Honnurappa (P. W. 8), an Ediga, is the nephew of Linganna, the owner of the house in which P. W. 2 took refuge. P. W. 8 says his uncle lived in the Nizam's Dominions and that he was residing in it. He was alone in his house that day when at about 1 P. M. he saw P. W. 6 descending his ladder through his skylight from the roof followed by P. W. 7. Behind him came P. W. 2 and then saw A-3 from the roof hitting him on the head with a battle-axe. P. W. 2 fell down from the ladder, and P. W. 8 also says that he then saw As. 9 and 13 pelt stones through the skylight. Nothing specific has been elicited showing any interest by this witness against these three accused whom he specifically incriminates.

14. This concludes the evidence about the actual attack on P. W. 2 in his house and his narrow escape with his life into the house next door over the roof. The Sub-Inspector (P. W. 14) prepared two plans of these adjacent houses, Exs. P-6 and P-7 and Ex. P-8, a plan of the locality. He picked up a battle-axe (M. O. 1) and a stick (M. O. 2) in the central room of P. W. 2's house. He also found the door of this room lying on

the floor removed from its hinges. He found what he describes as a dried pool of blood in the padasala of P. W. 2's house and a similar blood patch in the padasala of Linganna's house in which later he found a ladder flat on the floor below the skylight. In P. W. 2's house he found a cot in the unroofed portion of his house, which undoubtedly assisted P. Ws. 6 and 7 and P. W. 2 to get quickly up on to the roof. There is nothing surprising in P. W. 2 who was according to these witnesses quite conscious being helped to escape in this way. The Sub-Inspector found no blood stains on either roof or on the ladder in Linganna's house. This is explained by the fact that P. W. 2's injuries had all been bandaged before the second attack started. In the central room of P. W. 2's house the Sub-Inspector found blood stains, and what he described as splashes of blood on the floor. He admitted in cross-examination that he did not use the word 'splash' in any of his previous records.

15. One line of defence supported by a single witness Linga (D. W. 8) is that P. W. 2 really received his injuries in the fields and was brought to his house in a bandy. D. W. 8 whose house is 30 or 40 yards from P. W. 2's house says he saw P. W. 2 being brought in an open cart driven by P. W. 6 with blood flowing from injuries on his head and hands while he was sitting in the Basavanna temple. This line of defence can only explain, what is an undisputed fact that P. W. 2 was found by the Sub-Inspector in the house of Linganna, by a suggestion that finding P. W. 2's house locked he was taken to the house next door. But the plan, Ex. P-8, shows the house of P. W. 2 in a blind alley and the house of Linganna next to it with his front door leading into an entirely different street. The plan, Ex.P-8, shows the distance to be considerable, and according to the learned Public Prosecutor it is about three furlongs. There is therefore overwhelming and cogent testimony of eye-witnesses borne out by the state of affairs in these two houses, which conclusively prove the second phase of the attack on P. W. 2 and his escape with his injuries into the house next door and his chase by the crowd on the roof. I have also given careful consideration to the possibility of P. W. 2 having been injuried in the fields in the course of the land dispute, but it can be safely ruled out. The Lingayat party were in very great strength that day, and it is most unlikely that P. W. 2 would have dared to venture out of his house. The prosecution evidence conclusively proves that he was attacked in his house. The main difficulty in the case is whether among his assailants there has been any false implication inspired by the very strong enmity between P. W. 2 and the Lingayat party, particularly the Village Magistrate's family, which manifested itself in this clear attempt to murder P. W. 2.

16. I shall now examine the first complaint, Ex. P-5, made at 9 P. M. at the Kurugode Police Station by Siddappa (P. W. 11) and the sources of his information as disclosed by the evidence. The first informant as to what transpired in the Village was Sivalinga's brother Hanumanthappa (P. W. 10) who saw nothing himself and when he came to Bellary was only in possession of some information his wife Eramma (P. W. 9) gave him. P. W.10 says he came to Bellary that morning in connection with some business about a bandy and returned home at 3 P.M. His wife then told him that As. 2, 3, 5, 9, 13 and one Jambana Gowd had come to their house to kill Sivalinga and not finding him had gone to P. W. 2's house to cut him. He said his wife asked him to go and tell Sivalinga not to come back to the village. Without even making any attempt to see P. W. 2 P. W. 10 hastened to Bellary and told this to Siddappa (P.W. 11), his brother Sivalinga (P. W. 12) and Ediga Ramappa whom he found together at Bellary near the Siruguppa bus stand. These persons also were in possession of the information Sivalinga brought about Raghavendra Rao and Rama Rao coming in force to the village and reaping the harvested crops that morning. There was another source of possible information as to what actually transpired in the village when they stopped their taxi near Somasamudram village and sent P. W. 10 to find out whether P. W. 2 was alive. P. W. 10 in examination-in-chief says he found P. W. 2 in a bad way and unable to speak and brought this information only to Siddappa. In cross-examination he said that lamps

were lit in the village and that P. W. 3 was weeping by her son. He asked no one in the village who had attacked him and no one in the village told him who had done so. P. W. 3 on her own showing did not actually see who had actually attacked her son. It is however reasonable to expect that if the Village Magistrate (A-1) was one of his direct assailants with a battle-axe P. W. 2 would have told P. W. 3 this, and this is one of the first things that P. W. 3 would have communicated to P. W. 10. The same observation applies though in a far lesser degree to A-1's uncle (A-2).

17. Now Ex. P-5 the contents of which I have detailed supra jumbles up the land dispute, the arrival in the village that day of Raghavendra Rao and Rama Rao with their clerk (A-8) and several others with a lorry and a taxi and their harvesting the field with the assistance of As. 1, 2, 4, 5, 11, 16 and others. The description of the attack on Ayyanna is then general and to the effect that they entered his house by cutting his door and attacked him with battle-axes and hand-axes. I can see nothing in this first complaint laid on general information from the village which Sivalinga first brought and then P. W. 10 about the happenings in the village which is in any way incompatible with the actual evidence in the case. The Police in their investigation were satisfied that the two Brahmins Raghavendra Rao and Rama Rao had nothing to do with the attack on P. W. 2, and also that they were not in the unlawful assembly which undoubtedly gathered for this purpose. It is extremely unlikely that these two Brahmins from Bellary would take an active part in a murder of this kind. Mr. Narayana Ayyangar has laid much emphasis on Raghavendra Rao and Rama Rao being the two persons mentioned first in Ex. P-5, but that arises from mere chronological sequence of the happenings that day which commenced with the arrival of these two Brahmins in the village in force to harvest the crops and culminated in a murderous attack on P. W. 2 sometime after about 1 or 2 P. M.

18. The Village Magistrate (A-1) and his uncle (A-2) each put forward a separate alibi. The Village Magistrate says that he was in Madire, a village 3 miles from Somasamudram from about 9-30 A.M. on 1-11-1946 on procurement duty and returned next morning only at 8-30 A.M. The first witness he has examined is the Taluk Supply Officer, Bellary (D.W.4) who says he visited Madire on 31-10-1946 and that day sent a chit, Ex.D-4, to A-1 at Somasamudram through his peon saying that ryots of this hamlet were not present at his visit and directing him to enquire them the next morning and send him a report. He marked this chit produced by the Village Magistrate as urgent. The next witness is a Maistry of the Agricultural Department stationed at Kolur about two furlongs from Madire. He says he came to this hamlet at about 11-30 A.M. and saw A-1 there procuring grain. He asked the ryots for assistance in closing up some manure pits and the Village Magistrate directed him to come later as the ryots were engaged with him. He went back at 1 or 1-30 P.M. and the Village Magistrate told him that he had finished with some of the ryots whom he could take to help close the pits. D.W.5 says that he worked in Madire till about 5 P.M. and that when he left A-1 was still there. His weekly diary, Ex.D-8, to the District Agricultural Office shows that he was at Madire on 1-11-1946. The fact that he did not mention the presence of the Village Magistrate at Madire has little significance. D.W.6, a member of the Food Committee of Madire is prepared to swear that he was engaged with the Village Magistrate in procurement work from 9-30 A.M. till about 8 P.M. that day. D.W.6 denied a suggestion that he was a class-mate of A-1 in the Wardlaw High School and says he himself went to the Municipal High School. The main defect in the evidence of these witnesses is that they were not made available to the police in their investigation. D.W.5 says he did not know that A-1 was even arrested or anything about the police investigation. One would have expected A-1 to have put forward this alibi defence before the police for verification, during the investigation, and that he did not do so suggests that it was not quite conlusive.

19. A-2 pleads an alibi in Hubli that day and that he went there by the evening train from Bellary on 31-10-1946. His case is that he went there to negotiate a marriage between A-1 's brother and the sister's daughter of D.W.2 whe is the Inspector of a Central Co-operative Bank at Hubli. D.W.2 says that A-2 came at 6 A.M. and remained in his Bank Office till 11 A.M. 1-11-1946. The only document filed to fix his date is a letter, Ex. D-7, produced in an envelope, Ex.D-7(a), addressed to one Kotrayya who has not been examined. D.W.2 says he wrote this letter dated 29-10-1946 to Kotrayya who is a priest to come to Hubli to negotiate the marriage saying in it that A-2 was expected in Hubli on 31-10-1946. The envelope, Ex.D-7(a), is to say the least of it suspicious, addressed to Kotrayyaswami C/o K.C.C. Bank Ltd. This letter has not been proved by the recipient and it may well have been a subsequent insertion in a letter received by this bank with Kotrayya 's name subsequently written above the bank address. Another witness, Mari Thammappa (D.W.1), a member of the Legislative Assembly of Sangli State who claims to pay Rs. 3500/- kist merely says he saw A-2 in Hubli on 1-11-1946 in the Co-operative Bank from 6 A. M. to 11 A. M. that day. This witness's brother's daughter is married to A-2's brother's son. He says he was also invited as a relation to the marriage negotiations. But he fixed this date only from memory. The alibi of A-2 is inconclusive and in fact quite worthless.

20. A-13 has also sought to establish an alibi by producing the Death Register of Kokkarachedu, a village in Alur Taluk. The village Magistrate (D.W.7.) proved an entry, Ex. D-9(a), in it saying that A-13's daughter Kamalamma died there on 1-11-1946. He is prepared to swear that A-13 gave intimation of this death on 1-11-1946 and also signed the register at Ex.D-9(b). The Village Magistrate himself signed this register, Ex.D-9(c), under the date 2-11-1946 above this entry and explains that that was in token of the closure of the entries of the previous month, a copy of which was sent to the Tahsildar. The entries in this death register by themselves are not conclusive of A-13's presence in this village on 1-11-1946.

The other accused merely plead ignorance and false implication.

21. The first assessor thinks As.2. 3 and 9 guilty under Section 307 I.P.C. He thinks the Village Magistrate (A-1) has been falsely implicated by P.W.2 as one of his assailants. He would find A-1, and all the other accused not guilty on any count, apparently giving them the benefit of the doubt. The third assessor thinks that As.2 and 3 only are guilty under Section 307 I.P.C. agreeing with the first assessor that they both came into P.W.2's house and with some others and attacked him with a battle-axe and a sword. He too thinks P.W.2 has falsely implicated A-1 as the leader of the opposite party. This assessor believes A-1's alibi evidence that he was in Madire. He thinks the evidence against all the other accused not satisfactory and that they are not guilty on all counts.

The second assessor thinks that all the accused are not guilty and that P.W.2 was attacked in the fields and brought to his house with his injuries. He does not believe the evidence about P.W.2 being helped via the roof into Linganna's house and cannot say how P.W.2 was taken there. The fourth assessor gives the benefit of the doubt to all the accused on all counts. He thinks the cutting of the crops is closely connected with the cutting of P. W. 2 and that P. W. 2 may have falsely implicated As.1 to 3 and exonerated his real assailants because of the village faction.

22. The evidence is remarkable for a natural variation in the testimony of the witnesses who have not, as in a concocted case sought to corroborate each other solidly both as regards the personnel of the assailants and other salient details. Each witness in this case investigated with scrupulous fairness and much ability by Mr. P.T. Srinivasan (P.W.14) appears to have deposed to his own observations. Mr.Narayana Ayyangar who has defended the accused with his usual ability feeling this difficulty has gone to the lengths of suggesting that these variations

in the observations of witnesses are all the result of a cleverly concocted case to give it a colour of reality. I can find no warrant whatsoever for any such inference. The Lingayats in the village headed by the family of the Village Magistrate, the most influential in the village, were far more powerful than this carpenter P.W.2 who had led a revolt against them. If P.W.2 had been finished off as was the undoubted intention of the assailants it is more than likely that no satisfactory evidence as regards the identity of his assailants would have been forthcoming in the village. Unfortunately for them P.W.2 has survived what I am satisfied were two attempts to murder him. I find that his assailants after attacking him in his house and thinking he was dead went away, but on hearing that he was alive and conscious made a further attack on this house in an attempt to finish him off and that the prosecution story about the two phases of the attack is substantially true.

23. The main difficulty in the case is the identity of his actual assailants and those who took part in an unlawful assembly that day in the village which gathered with the object of attacking P.W.2. It is extremely unlikely that P. W. 2 would have emerged from his house with the opposite party in the village in such great strength reinforced as they were by Raghavendra Rao and Rama Rao and their followers, who came and reaped the harvest on the field in dispute that morning. As against As.10, 12, 14, and 15 there is no evidence at all except the omnibus identification of P. W.2 that he saw all the accused pass by the window of his house, and gather in a crowd near his front door before they entered. According to the prosecution their names were given out by P.W.2 when the Sub-Inspector examined him. These accused are not mentioned in Ex. P-5 and there has not been any attempt to concoct evidence against them to support P.W.2. His evidence by itself is quite insufficient for a conviction and I think they might have been left out of this chargesheet. They are acquitted and set at liberty.

24. The evidence in the case is strongest against As. 2, 3 and 9. It is significant that Eramma (P. W. 9) though she identified by name six persons who came inside her house to kill Sivalinga as Jambana Gowd and As. 2, 3, 5 and 9 when I sent her to the dock to point out the persons whom she identified she only pointed to As. 2, 3 and 9 and then she said positively that except for these three persons none of the other accused actually entered her house. P. W. 10 says that his wife told him that As. 2, 3, 5, 9 and 13 and Jambana Gowd came to their house and it was this information which he conveyed to Bellary and which was embodied in the first complaint, Ex. P-5. It is very significant that both P. Ws. 9 and 10 omitted the name of the Village Magistrate (A-1) altogether. I can see no grounds whatsoever for rejecting the evidence of P. W. 9 as regards the persons who actually entered her house, and it is a reasonable inference that these same persons were the first to rush into the house of P. W. 2 whose blood according to P. W. 9 they were next after. It is true that Devakka (P. W. 4), the mother of Sivalinga, who was also in her house at the time says she identified As. 1, 2, 3, 6, 9 and 13 in the crowd but her evidence was of a general character, namely that about 10 or 12 entered and asked where Sivalinga was. But the more specific evidence of P. W. 9 has a far stronger ring of truth. I am convinced that she has deposed to her own observations only. As against As. 2, 3 and 9 there is also the evidence of P.W. 6 that at the time P.W. 2 fell down from the ladder which he then pulled down he saw these three persons on the roof. As against A-3 there is the further testimony of P. W. 5, the Kuruba woman, who lived opposite P. W. 2's house that she identified him with a sword in his hand and only A-7 in addition going towards P. W 2's house. Finally as against A-3 there is the testimony of Honnurappa (P. W. 8), the only inmate in Linganna's house, that while P. W. 2 was getting down the ladder he saw A-3 from the roof hitting at his head with a battle-axe and As. 9 and 13 then pelting stones through his skylight after P. W. 2 fell down. These are the only three persons this witness implicates in his evidence.

25. Finally and most important of all there is the testimony of P. W. 2 himself who obviously saw and identified his principal assailants from whose blows with sharp deadly weapons he gallantly defended himself with his hands despite their being practically chopped to pieces. There is no reason whatsoever why this man should exonerate his actual assailants who sought to kill him and wounded him so grievously by substituting other innocent persons. I have given very careful consideration to the case of A-1. P. W. 2 attributes a blow on his head with a battle-axe to A-1 as the last in the sequence of blows after A-2 and A-3 had cut him repeatedly with a battle-axe and a sword. I think that P.W.2 has not been able to resist a temptation of including as one of his actual assailants the Village Magistrate who was one of the principals in the faction opposed to him. It is also not likely that the Village Magistrate himself in view of his office would have led such an attack, and in this connection the evidence of Eramma (P. W. 9) who swore specifically that only As. 2, 3 and 9 came into her house to kill Sivalinga is most significant. I have given anxious consideration to the case of A-2, a middle aged man and the paternal uncle of A-1 and the possibility of his having been falsely implicated. The improbability of a respectable Lingayat leading such a murderous attack has been stressed, and also his probable substitution for another actual assailant. But here again the evidence of P.W. 9 furnishes cogent corroboration of the evidence of P. W. 2 that As 2 and 3 were the ring leaders in the actual murderous attack to be launched on Sivalinga and then on P. W. 2 that afternoon. I find in agreement with the Ist assessor As. 2 and 3 guilty under Section 307 I. P. C. I find A-1 not guilty under this direct charge on which he is acquitted. On the evidence of P. W. 2 a direct charge under Section 307 I. P. C. was not framed against A 9 although he was, I think, one of the actual assailants who entered P. W. 2's house. I find As. 2, 3 and 9 guilty under Section 452 I. P. C. The other accused are acquitted on this count.

26. Coming now to the rioting Section under Section 148 I. P. C. the evidence abundantly shows that more than 5 persons collected themselves into an unlawful assembly to support a murderous attack contemplated on Sivalinga and on P. W. 2. I find As. 2, 3 and 9 guilty under Section 148 I. P. C.

As regards the remaining accused I acquit A-1 under this section also, the evidence against him being, as I have shown, unacceptable, and inconclusive.

A-4 is included in the crowd by P.Ws 2 and 3 and is also mentioned in Ex. P-5. He is A-2's brother. He has pleaded false implication by P. W. 2 for supplanting him in the grain shop. I find that he was a member of this unlawful assembly in which he supported his brother. I find him guilty under Section 148 I. P. C.

As. 5, 11 and 16 appear by name only in the first report, Ex. P-5, and are mentioned by P.W.2. As against them there is no other evidence. The material against them raises only a strong suspicion that they were also in this riot. I find them not guilty on all counts.

A-6 is only mentioned generally by P. Ws. 2, 3 and 4 and is not mentioned in Ex. P-5. He is acquitted on all counts.

A-7 is identified only by Lingamma (P.W. 5) as a person she saw in the crowd along with A-3 who had a sword. There is no reason for her to implicate A-7 falsely. There is however no other evidence against him and he is not mentioned in Ex. P-5. I find him also not guilty on all counts.

A-8, the clerk of Raghavendra Rao, is mentioned in Ex. P-5 and generally by P. W. 2. The evidence against him is inconclusive. I find him also not guilty on all counts.

The remaining accused, A-13, is mentioned generally by P. W. 2. Honnurappa (P. W. 8) identified him as a person who with A-9 threw stones through his skylight when A-3 struck at P. W. 2 with a battle-axe. I find A-13 guilty under Section 148 I. P. C.

On the constructive charge under Section 307 I. P. C. read with Section 149 I P.C. I find As. 4, 9 and 13 guilty, the evidence conclusively establishing their presence and active assistance in this unlawful assembly whose attempt to murder P. W. 2 just failed.

27. The question of sentence is not very easy. The evidence clearly shows that after making a murderous attack on P. W. 2 As. 2, 3 and 9 left him for dead and then on hearing that he was alive and had recovered consciousness made another attack on him to kill him and stop him from deposing against them. P. W. 2 escaped miraculously with his life and the surgical skill of the District Medical Officer, Bellary Dr. Rama Menon saved his hands from amputation. He however will remain a permanent cripple. Taking all these circumstances into consideration I sentence As. 2 and 3 to transportation for life under Section 307 I.P.C. and A-9 is sentenced to 7 years' rigorous imprisonment under Section 307 read with Section 149 I. P. C. As. 4 and 13 are each sentenced under Section 307 read with Section 149 I.P.C. to three years' rigorous imprisonment. As. 2, 3, 4, 9 and 13 are also sentenced under Section 148 I.P.C. each to undergo three years' rigorous imprisonment - all sentences to run concurrently. No separate sentence is necessary on the minor count under Section 452 I. P. C. of which As. 2. 3 and 9 are also guilty. The other accused viz., As. 1, 5, 6, 7, 8, 10, 11, 12, 14, 15 and 16 are acquitted on all counts and their bail bonds are cancelled.

(Signed). E. E. MACK,
Sessions Judge.

NOTE :—As. 2, 3, 4, 9 and 13 have been committed to the Central Jail at Bellary.

OPINION OF ASSESSORS :—

First Assessor :— As. 2 and 3 and some others entered P. W. 2's house and attacked him, A-2 with a battle-axe and A-3 with a sword. As. 2, 3 and 9 chased P. W. 2 on the terrace, and A-9 cut him on the head as he was getting down the ladder. As. 2, 3 and 9 are guilty under Section 307 I. P. C.

I would give the benefit of the doubt to As. 1 and 13. I think A-1 has been falsely implicated by P. W. 2 as one of his actual assailants. As. 1, 4, 5, 6, 10, 11, 12, 14 to 16 are not guilty.

Second Assessor :—I think P. W. 2 was attacked in the fields and that he was brought to his house with his injuries. I find it difficult to believe the prosecution case about P. W. 2 being helped up to the roof and climbing down the ladder of Linganna's house. I cannot say how P. W. 2 was taken there. All the accused are not guilty.

Third Assessor — As. 2 and 3 are guilty under Section 307 I.P C. They came into P. W. 2's house with some others and attacked him with a battle-axe and a sword. I think P. W. 2 has falsely implicated A-1 as the leader of the opposite party. I also believe his alibi evidence that he was in Madire that day. There is no satisfactory evidence against the other accused who are not guilty on all counts.

Fourth Assessor :—I give the benefit of doubt to all the accused on all counts. The cutting of the crops is closely connected with the cutting of P. W. 2. P.W.2 may have falsely implicated As.1 to 3 and exonerated his real assailants because of the faction. Accused are all not guilty.

The following witnesses were examined :—

**For the Prosecution.**

1. Dr B. Sankara Rao (S. A. S.)
2. Ayyanna.
3. Kalamma.
4. Devakka.
5. Lingamma.
6. Kowdki Basappa
7. Obanna.
8. Ediga Honnurappa.
9. Eramma.
10. Hanumanthappa.
11. Ediga Siddappa.
12. Sivalingappa.
13. R. Lakshmana Rao (S. I.).
14. P. T. Srinivasan (S. I.).
15. K. Ramanthasela (C. I.).

**For the Defence.**

1. Mari Thammappa.
2. Gangadharappa.
3. Somana Gowd.
4. K. Satyanarayana Rao (Taluk Supply Officer).
5. Basappa.
6. Sirasappa.
7. Linganagowd.
8. Chakala Linga.

The following exhibits were used

**For the Prosecution.**

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| P-1/4—11—1946. | Wound certificate. |
| P-2. | Petition by Ayyanna (P. W. 2) to the District Superintendent of Police, Bellary |
| P-2(a)/14—9—1945. | Report of enquiry on Ex. P-2 by the Sub-Inspector R. Lakshmana Rao (P. W. 13). |
| P-3/29—10—1945. | Petition by Ayyanna (P. W. 2) to the District Superintendent of Police, Bellary. |
| P-3(a)/21-11-1945. | Report of P. W. 13 on Ex. P-3 |
| P-4/27—7—1946. | Certified copy of judgment in C. C. 1696/45 on the file of the Stationary Sub-Magistrate, Bellary |
| P-5/1—11—1946. | Complaint made by Ediga Siddappa (P. W. 11) to the Station Writer, Kurugode. |
| P-6. | Rough sketch of the house of Ayyanna (P. W. 2). |
| P-7/20—1—1947. | Do do. Linganna. |
| P-8/27—3—1947. | Plan of the scene of offence and its surroundings. |
| P-9 & P-9(a) to P-9(p)/25-1-1947. | Statements of As. 1 to 16 in the lower court. |

**For the Defence.**

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|---|---|
| D-1/25—2—1945. | Proceedings of the Revenue Divisional Officer Bellary appointing Siddaramana Gowd (A-4) as Ration Depot Keeper in the place of Ayyanna (P. W. 2). |
| D-2/4—11—1946. | Certified copy of the affidavit of Sivalinga (P. W. 12) filed in I. A. 930 of 1946 in O. S. 480 of 1946 District Munsif's Court, Bellary. |
| D-3/1—11—1946. | First information report sent by the Station Writer, Kurugode. |
| D-4/31—10—1946. | Chit from the Taluk Supply Officer, Bellary to A-1 to proceed to Madire for grain procurement. |
| D-5/19—10—1946. | Certificate given by Prohibition Sub Inspector, Kurugode to A-1. |
| D-6/30—7—1946. | Certified copy of deposition of Hanumanthappa (A-8) in O. S. 458 of 1945, District Munsif's Court, Bellary. |
| D-7/29—10—1946. | Letter written by Gangadharappa (D. W. 2) to Kotrayyaswami. |
| D-7(a). | Envelope to Ex. D-7. |
| D-8. | Weekly report from 1-11-1946 to 7-11-1946 sent by D. W. 5 to the District Agricultural Officer, Bellary. |
| D-9. | Death register of Kokkarachedu Village, Alur Taluk during the year 1946. |

45 25



D-9(a). Entry relating to the death of Kamalamma, daughter of A-13.

D-9(b). Signature of A-13 in Ex. D-9(a).

D-9(c). Signature of D. W. 7 under the date 3-11-1946 above the entry on 1-11-1946 in Ex. D-9.

MATERIAL OBJECTS PRODUCED IN EVIDENCE.

1. Battle-axe.
2. Stick.

(Ild.). E. E. M.
Sessions Judge.

(True copy).

Sheristadar.

Number of words 9335 Charges Rs. 31—12—0.

3397

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Friday, the twenty-second day of August,

One thousand nine hundred and forty-seven.

Present:-

The Honourable Mr. Justice LAKSHMANA RAO.

and

The Honourable Mr. Justice GOVINDA MENON.

Criminal Appeal No.231 of 1947.

1. Lingana Gowd 9634
2. Boya Girimalla 9635
3. Siddaramana Gowd 9636
4. Karuru Nagappa 9637
5. Ramana Gowd 9638

Appellants (Accused Nos.2 to 4, 9 and 13) (Prisoners)

Appeal against the order of the Court of Session of the Bellary Division dated 2-4-1947 and passed in Case No.7 of the Calendar for 1947.

This Appeal coming on for hearing, on Wednesday and Thursday the 20th and 21st days of August 1947, upon perusing the Petition of Appeal, the record of the evidence and proceedings before the Court of Session and upon hearing the arguments of Mr.K.S.Jayarama Ayyar for Mr.P.R.Ramachandra Rao, Advocate for the Appellants and of the Assistant Public Prosecutor on behalf of the Crown and the case having stood over for consideration till this day, the Court delivered the following

JUDGMENT:- The village of Somasamudram, about seven miles distant from the town of Bellary, has been a faction-ridden one, the contending parties being some Lingayats and Boyas on the one side and P.W.2 a carpenter and his henchmen P.Ws.10 to 12 and others on the other. More than two years ago, P.W.2 wanted to take out a marriage procession along the streets which was objected to by the Lingayats and ill-feelings arose out of this incident. P.W.2 appealed to the authorities as is evidenced by Exs.P.2 and P.3, which were enquired into by the Sub-Inspector

of Police P.W.13 who warned both the parties to behave properly Another source of strife was the dispute regarding certain land once held by one Mari Gangamma which formed the subject matte of O.S.No.480 of 1946 on the file of the District Munsif of Bellary. P.Ws.2 and 12 were cultivating the land and an injunction was obtained against P.W.12 prohibiting him from cutting the crop on the land by one Savitramma whose power of attorney holder was Raghavendra Rao.

With this setting, the attack on P.W.2 which has given rise to this appeal took place; and accused 2,3,4,9 and 13 along with eleven others were tried for offences under Sections 148 452,307 and 307 read with 149 of the Indian Penal Code. The learned Sessions Judge convicted accused 2,3,4,9 and 13 and acquitted the others. All of them have been sentenced to rigorous imprisonment for three years under Section 148 I.P.C. and the second and third accused have been sentenced to transportation for life under Section 307 of the Indian Penal Code. The ninth accused has further been sentenced to rigorous imprisonment for seven years under Section 307 read with Section 149 I.P.C. and the fourth and thirteenth accused have been sentenced to rigorous imprisonment for three years for the same offence. No separate sentence was passed for the offence under Section 452 I.P.C. and the sentences of all the accused have been directed to run concurrently.

According to the prosecution case, on the 1st November 1946 at about midday these accused formed themselves into an unlawful assembly, went to the house of P.W.12, and finding that he was not there went to the house of P.W.2. Some of them (accused 1,2 and 3)got inside the house and after removing a bolted door by its hinges, rushed inside the room where P.W.2 had taken refuge. They inflicted injuries on P.W.2 on the head, and hands with weapons like battle axes and sword. P.W.3, the mother of P.W.2 was in the house and the rioters went out after inflicting

injuries, one of them exclaiming "We have killed Ayyanna"(i.e. P.W.2). P.W.2 had sustained bleeding injuries all over his body and P.W.3 took him to another place in the house. P.W.4 and two other women came there and helped to bandage the injuries on P.W.2. The houses of P.Ws.6 and 7 lie to the southeast and south west of P.W.2's house and on hearing the noise and seeing a crowd in the lane in front they got into P.W.2's house through its roofless portion and saw the women bandaging the injuries of P.W. 2. The crowd outside cried "Ayyanna is alive. Cut him" and the front door of the house was shut. P.Ws.6 and 7 then got out through the roofless portion and helped P.W.2 also to climb up the roof. All the three went to the roof of the adjoining house of P.W.8; and P.Ws.6 and 7 first got in through a skylight and descended into the house by a ladder kept leaning against the wall. P.W.2 followed and while P.W.2 was descending down the ladder some of the rioters got on the roof of the house and hit him on the head. He tumbled down to the floor and became unconscious. P.Ws.6 and 7 escaped from the house and P.W.3 came in later and remained near her son until 6 A.M. the next morning when the Sub Inspector of Police arrived.

The prosecution case further was that Raghavendra Rao the power-of-attorney holder and Rama Rao along with accused 8 and eight others came to the village at about 10 A.M. on the same day in lorries and taxis, and cut the ears of corn in the disputed land along with th accused 1,2,4,5,11 and 16 and others. Thereafter it was, that these people and others went to P.W.2's house. On the arrival of Raghavendra Rao and his party P.W.2 had sent his lieutenant P.W.12 to Bellary to consult Vakils there and take legal advice. P.W.10, the brother of P.W.12 had gone to Bellary previously and on returning to the village at about 3 P.M. he was told by his wife P.W.9 that the rioters including accused 2,3,5,9 and 13 came to their house to cut P.W.12 and being told that he was not there had gone to the

house

house of P.W.2 to cut him. P.W.10 was requested to go to Bellary and inform P.W.12 about the incident and ask him not to come to the village. Accordingly he went back to Bellary, met his brother P.W.12 and P.W.11 and informed them about the occurrence at Somasamudram. P.Ws.10,11 and another Ramappa then engaged a taxi and proceeded to Kurugode to inform the police about the happenings in the village and P.W.12 remained at Bellary. On the way the car was stopped at the outskirts of Somasamudram and P.W.10 was sent to the village. He found P.W.2 in a precarious state, came back and informed P.W.11 and Ramappa. They proceeded to Kurugode which they reached at about 9 P.M. and P.W.11 gave the complaint Ex.P.5 to the station writer. The Sub Inspector P.W.14 was away at Siruguppa and P.W.11 and Ramappa went there and took him in their car to Kurugode at 2 A.M. The Sub Inspector perused the complaint Ex.P.5 which had already been registered as a case and proceeded to Somasamudram reaching there at 6.A.M. on 2-11-1946. He went to the house of P.W.8 and finding P.W.2 lying there with injuries bandaged, took him in the same car to the Bellary Headquarters hospital where P.W.1 the Sub Assistant Surgeon examined him. There were fourteen injuries on P.W.2 of which injuries 1,3,4,6 and 7 in the wound certificate Ex.P.1 were grievous, the rest being simple. According to P.W.1, injuries Nos.1 to 8 would have been caused by weapons such as battle axes or swords. The right wrist was practically cut through and the metacarpal bones in the right hand were completely cut. There was a fracture of the bones situated on the skull near the middle line traversing from the right to the left parietal bone. P.W.2 was an inpatient in the hospital for more than two months and both his hands have become permanently crippled. The doctor thought that P.W.2 would die but he survived.

The Sub Inspector returned to Somasamudram on 3-11-1946 and continued the investigation. The accused were not available and except one the others surrendered to Court between the 8th

and

55 2nd C.A. 22/25



and the 14th of November.

In the Committing Court the second accused denies the offence and pleaded alibi stating that he was in Kabli on the date of the offence. In the Sessions Court he added that he and P.W.2 were on inimical terms on account of himself and the fourth accused getting the licence for a ration shop which P.W.2 had. The third accused in the committing Court denied the offence stating that he was in the field and did not know anything. In the Sessions Court he also pleaded that he and P.W.2 were on inimical terms and stated that he had been falsely implicated on account of factions in the village. The fourth accused denied any complicity in the committing Court stating that the case was put up on account of enmity. In the Sessions Court he affirmed accused 2's statement regarding the enmity with P.W.2 on account of their getting the licence for the ration shop. The ninth accused in the committing Court denied the offence and stated that he was implicated on account of enmity. In the Sessions Court he added that on account of the obstruction to the marriage procession P.W.2 was inimical towards him. The 13th accused pleaded alibi in the committing Court and stuck to it in the Sessions Court giving more details as to where he was on the day of offence. D.Ws.1 and 2 and 3 were examined to prove the defence of second accused D.W.7 for the thirteenth accused and D.W.8 to prove that P.W.2 was injured not in the manner alleged by the prosecution but on the disputed field.

With regard to the attack on P.W.2 the actual assailants as mentioned by him are accused 1, 2 and 3, the third accused cutting him with a sword and the second accused with a battle axe. He also attributed acts to the first accused. The learned Judge considered that P.W.2 had not been able to resist the temptation of including as one of his actual assailants the village munsif (accused 1) who was one of the principals in the faction opposed to him and acquitted accused 1 as the evidence of P.W.2 regarding the part played by accused 1 had not been sufficiently satisfactorily corroborated.

There can be no doubt that more than five rioters including some of the appellants marched to the house of P.W.2 and some of them attacked him and caused him the injuries mentioned in Ex.P.1 and that P.W.2 managed to go to the house of P.W.8 through the roofless passage and the skylight. This part of the case is spoken to not only by P.W.2 but also by P.W.3, P.W.4, P.W.6 and P.W.7. P.W.5 who lives in front of P.W.2's house saw a crowd of 50 to 60 persons going to his house with weapons in their hands and identified accused 8 who had a sword in his hand. She went to the house after the crowd left and saw P.Ws.3 and 4 bandaging the injures of P.W.2. P.W.6 corroborates the arrival of P.Ws.2,6 and 7 through the skylight and says that he saw th accused 3,9 and 13 on his roof of whom accused 9 and 13 pelted stones through the skylight. Accused3was seen hitting P.W.2 on the head with a battle axe. We have further the evidence of P.Ws.3,4 and 9 of whom P.W.9 is very specific regarding accused 2,3 and 9. P.W.4 speaks in general terms about others including accused 2,3,9 and 13. P.Ws. 12 and 11 were informed about it by P.W.10 on the information of P.W.9 and the occurrence was reported to the police by P.W.11, Exhibit P.5 being his complaint. The Sub Inspector of Police P.W.14 found blood in the central room of P.W.2's house where he was first attacked. There was dry blood in P.W.8's house and the route by which P.W.2 went there. There were some stones also in the house and the Sub Inspector testifies that a man can easily climb on to the roof of the house of P.W.2 with the help of the country coir cot which was under the roofless portion of P.W.2's house. There was a ladder against the wall under the skylight of P.W.8's house and we see no reason to doubt the prosecution case despite the contention of Mr.Jayarama Aiyar that the alleged attack on P.W.2 in the houses cannot be true and he must have been assaulted in the disputed field. The evidence of P.W. corroborated by that of P.Ws.3, 4, 6,7 and 8 that he got out of his house through the unroofed portion and was getting into the house of P.W.8 through the skylight when he was attacked again is borne out

by the presence of blood in both the houses and it is too uncommon a story to be invented. It has the stamp of truth in it and there is no good reason to disbelieve it.

The question is whether the appellants or any of them participated in this attack. We shall first deal with the case of accused 4 and 13. P.W.2 does not say anything about accused 4 or 13. There is no credible evidence that accused 4 was one of the assailants or was in the crowd. Except [redacted] evidence of P.W.3 who in an omnibus way deposes that accused was one of the persons who came into the house, there is no other evidence against him. It would therefore be unsafe to convict him and he is entitled to the benefit of doubt. The presence of accused 13 is spoken to by P.Ws.3,4 and 8. No part is ascribed to him by P.Ws.3 and 4. No doubt P.W.8 says that he was one of the persons who pelted the stones. Accused 13 further has his alibi evidence which though not conclusive cannot be brushed aside as false. In the circumstances it was rightly conceded by the learned Assistant Public Prosecutor that he too is entitled to the benefit of doubt.

With regard to the other accused, we see no reason to differ from the view taken by the learned Sessions Judge. Definite parts are attributed to accused 2 and 3 by P.W.2. Accused 2 is identified by P.Ws.3,4,6 and 9 and the evidence of P.W.9 has been rightly stressed by the learned Sessions Judge. We see no reason to disagree with his appreciation of the prosecution evidence and the rejection of the defence evidence. Accused 3 is implicated by P.Ws.2,3,4,5,6,8,9 and 10 and his guilt admits of no doubt. As regards accused 9 we have the evidence of P.Ws.4,6,8 and 9 and there is no reason to dissent from the lower Court regarding his participation in the crime. The convictions of accused 2,3 and 9 are therefore confirmed

In the question of sentence, we do not think that this is a case in which the maximum punishment prescribed by Section 307 of the Penal Code is called for, and the ends of justice will be met by awarding a sentence of seven years rigorous imprisonment for the offence under Sec.307 I.P.C., on accused 2 and 3 and a sentence of four years rigorous imprisonment on accused 9 for the offence under Section 307 read with Section 149 I.P.C. The sentences on accused 2,3 and 9 are reduced accordingly and the sentences under Section 148 I.P.C. will stand. All the sentences will run concurrently and otherwise their appeal is dismissed.

Accused 4 and 13 are acquitted and they will be set at liberty

(Sd) R.Jayaram Ayyar,
Deputy Registrar, Appellate Side.

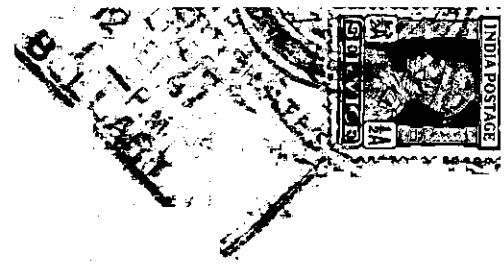
(True copy)

Assistant Registrar,
Appellate Side.

1. The Sessions Judge [redacted]ary (in duplicate for communication to the prison[redacted] (with records).
2. The District Magis[redacted]ellary.
3. The Inspector-Gene[redacted]e, Madras.
4. The Superintendent, Central Jail, Bellary.
5. The Public Prosecutor, Madras.

PK.

Dated 22nd August 1947.



JUDGMENT

Criminal Appeal No. 231 of 1947

D. class
9635 (9635 9637)
J. Desai

Acquitting the accused Nos.4 and 13 in the Bellary Division Sessions Case No.7 of 1947 and reducing the sentences passed on the accused Nos.2,3 and 9.

Endt.No.R. 7867 '49 Dated 17/10/49.

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103743

From
Sri.K.Narasimhamurthy,
Superintendent,
Central Jail, Bellary.

To
The Secretary to Government,
Home Department, Ft.St.
George, Madras.

Sir,

Sub: PRISONERS- Advisory Board- Central Jail, Bellary,
Convict No. 9634 LINGANNA GOWD and 9635 Boya Giri Malla-
orders-of Release- acknowledged-

Ref: G.O.Ms.No. 4065 HOME DEPARTMENT dated 13-10-1949.

- - O - -

The receipt of the Government order referred to above is hereby acknowledged.

The two prisoners will be released on the dates noted against each, in the annexure to the G.O.

Superintendent. 17/10

~~#~~ 64

Copy submitted to the Inspector General of Prisons, Madras for favour of information.

Home Dept.

Page 1 above is submitted for perusal. May be filed with the G.O. at (U)

Barfoot

~~Page~~ (U)

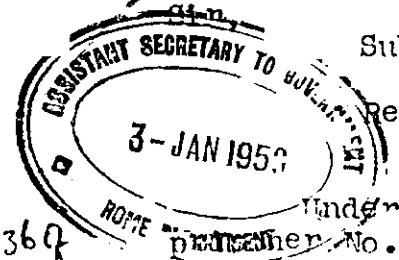
22/10/45

No.R. /50

Dated 3-1-50.

From
Sri. K. Narasimha Reddy,
Superintendent,
Central Jail, Bellary.

To
The Secretary to Government,
Home Department, Ft.St.George,
Madras.




Sub: PRISONERS- Advisory Board- Central Jail, Bellary - convict No. 9635, BoyaGirimalla- release- reported-

Ref: (1) G.O.Ms.No. 4065 HOME Department dated 13-10-49.
(2) This office letter No.R. /49 dated 17/10/49.

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Under para 567-B. Madras Prison and Reformatroy Manual, Vol.I prisoner No. 9635. Boya Girimalla is released from the Jail, to-day, conditionally.

Superintendent. 2/1/50

Copy Submitted to the Inspector General of Prisons, Madras for favour of information.